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Death for Spies?

During the Time magazine-Ariel Sharon libel trial, I dropped in on the proceedings and found myself more interested in the courtroom than anything being said on the stand. Sharon was testifying, but I cannot recall what he said. I remember the courtroom, though. It is dark, ceremonial and somber—suited to its place in history. This is where Julius and Ethel Rosenberg were sentenced to die.

Now the government says another family has gone into the spy business. They are the Walkers: John Jr.; his son, Michael; and John's brother, Arthur. All three, plus a fourth man, Jerry Alfred Whitworth, were Navy men with access to secret information that, the government says, they sold to the Soviets. At the moment, there are two things we do not know. The first is exactly what damage was allegedly done by the Walkers and Whitworth. The second is their guilt. They have yet to be tried, not to mention convicted.

Still, the House of Representatives and an occasional senator yell "string 'em up!" Moving with the due deliberation of a lynch mob, the House voted just the other day to permit military courts to impose the death penalty for peacetime espionage. Sen. Ted Stevens, the Alaska Republican and the Rambo of the Senate, suggested the televised execution of traitors by firing squad. Whether on prime time or some other hour he did not say. Maybe Navy men will be made to walk the plank.

Because we have spy charges leveled at three members of the same family and because family members galore say they suspected something was going on, the Rosenbergs come to mind. They, too, were a family—an extended one at that. In addition to Julius and Ethel, the government also brought charges against David Greenglass, Ethel Rosenberg's brother. In the end the family turned against itself; Greenglass testified against the Rosenbergs, helping to send his sister and his brother-in-law to their deaths.

It is worth recalling the Rosenbergs now not just because they were a family too, but because that experience—whether seen as a tragedy, a travesty or justice at its best—raises all kinds of questions about the death penalty in espionage cases. Just for starters, some experts believe that the death penalty was used in Ethel Rosenberg's case in an attempt to pressure her husband into providing the names of still other spies. For whatever reason, though, Julius did no such thing.

It is also worth recalling that the charge

against the Rosenbergs was far more serious than the one leveled against the Walker clan. The Walkers are, in essence, accused of selling secrets to the Russians that may have helped them track U.S. submarines. The charge against the Rosenbergs was, officially, conspiracy. But in the press and in the mind of the judge who sentenced them to die, they were accused of providing the Soviets with "the secret of the A-bomb" and all but held responsible for the Korean War. Unlike the Walker case, we are not talking dinky radio traffic here.

We now know the Rosenbergs provided no

such secret. There is no single secret of the A-bomb, and the Soviets would have exploded their bomb sooner or later—Rosenbergs or no Rosenbergs. We know, too, that other spies—notably Klaus Fuchs in England—had already provided the Soviets with key atomic information but that, anyway, there is no way to keep a major power from developing an atomic weapon—or, probably, of tracking each other's submarines. No secret is forever.

And, finally, we know that there was no good reason to execute the Rosenbergs. Not only did their example fail to deter others, but their deaths obviously ended any chance that they

might ever cooperate with the government or be swapped for spies held by the Soviets. All the death penalty did was make orphans out of two boys.

Congress, though, seems intent on learning nothing from the whole terrible experience. Not sure what damage the Walkers have allegedly done, ignoring, even, that they have yet to be convicted, the House demands death for future cases, and a senator, with an eye for detail, specifies the manner. In a blind panic, politicians have once again reached for the wrong solution. They think they've got the hangman's mask. History will say it's a dunce cap.